

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

**NOTICE OF MOTION NO.503 OF 2003
IN
INCOME TAX APPEAL (L)NO.118 OF 2003**

The Commissioner of Income Tax
Vs.
M/s.Ingersoll Rand (I) Ltd.

..Applicant

..Respondent

Mr.A.D.Kango for the Applicant.
Mr.H.Toor i/b. P.J.Ranga for the Respondent.

**CORAM :- DR.S.RADHAKRISHNAN &
V.C.DAGA, JJ.**

DATE : 10TH APRIL, 2007

P.C.

1. Heard the learned Counsel for the parties. By this Notice of Motion, the Applicant is seeking condonation of 344 days delay in filing the above Appeal. In the affidavit-in-support of the Notice of Motion dated 07/02/2003 it is merely mentioned that the Department was undergoing major restructuring and the case records were transferred from one charge to another. When the above Notice of Motion was placed on board on 05/02/2004 for the first time, the Applicant took two weeks' time to file better affidavit. Again on 26/02/2004, further period of three weeks' time granted to file better affidavit. Even then no affidavit has been filed by the Applicant. On 21/11/2005 again, further time was sought and the matter was adjourned to 29/11/2005 on which date also no better affidavit has been filed on behalf of the Applicant. On 29/11/2005 again Mr.Rao, the learned Counsel appearing on behalf of the

Applicant prayed for two weeks time to file a detailed affidavit and to explain the delay, accordingly the matter was adjourned. Even today, when the matter appeared on board, the learned Counsel appearing on behalf of the Applicant states that he has no papers also.

2. We find in almost every matter where the Revenue has filed Appeal, identical affidavits have been filed giving bereft reasons that the Department was undergoing major restructuring work and there were transfer of case records from one charge to another and the Assesseees were being identified as per Municipal Limits. No particulars or details regarding delay are given. In fact the learned Counsel for the Applicant fairly conceded that the major restructuring work took place in the year 2001 and the present Appeal has been filed on 07/02/2003.

3. Over and above, even the issue raised in the above Appeal is squarely covered in the case of **Commissioner of Wealth Tax Vs. (Miss) Sripriya Mahesh 245 ITR 765**. Hence, the Notice of Motion stands dismissed.

(V.C.DAGA,J.)

(DR.S.RADHAKRISHNAN,J.)